

United States Court of Appeals For the First Circuit

No. 05-1589

ERNEST N. BENJAMIN,
Petitioner - Appellant,

v.

LUIS SPENCER, Superintendent,
Respondent - Appellee.

ORDER OF COURT
Entered: May 17, 2005

This court has docketed petitioner's appeal from the March 31, 2005 order granting respondent's motion to dismiss in CA No. 04-11025 (D. Mass.). Judgment entered on May 4, 2005. On April 28, 2005, petitioner filed a motion pursuant to Fed. R. Civ. P. 60(b) in the district court. Pursuant to Fed. R. App. P. 4 (a)(4)(A), the notice of appeal does not become effective until the district court disposes of the post-judgment motion.

Therefore, appellant is directed to file a status report by June 17, 2004, *and at thirty day intervals thereafter*, informing this court of any action taken by the district court on the post-judgment motion. Further, the appellant is directed to immediately inform this court when the district court disposes of the motion and whether or not he intends to file a notice of appeal or amended notice of appeal from the district court's post-judgment order. See Fed. R. App. P. 4(a)(4)(B). Copies of the district court's ruling shall be forwarded to this court.

Once the district court rules on the motion pursuant to Fed. R. Civ. P. 60(b), appellant is directed to file a request for a certificate of appealability in the district court. *See* Local Rule 22.1(b).

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AND IN MY LEGAL CUSTODY

FIRST CIRCUIT COURT OF APPEALS
BOSTON, MA

By: *[Signature]* Date: *5/17/05*

By the Court:
Richard Cushing Donovan, Clerk

JULIE GREGG

By: _____
Operations Manager

[Certified Copies: Honorable Joseph L. Tauro, Sarah Thornton, Clerk of the United States District Court, District of Massachusetts]

[CC: Ernest N. Benjamin, Eva M. Badway, AAG]